

AMENDED IN ASSEMBLY APRIL 13, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 869

Introduced by Assembly Member Cooper

February 26, 2015

An act to amend Section 99580 of the Public Utilities Code, relating to transportation.

LEGISLATIVE COUNSEL’S DIGEST

AB 869, as amended, Cooper. Public transportation agencies: fare evasion and prohibited conduct.

Existing law authorizes a public transportation agency to adopt and enforce an ordinance to impose and enforce civil administrative penalties for fare evasion or other passenger misconduct, other than by minors, on or in a transit facility or vehicle in lieu of the criminal penalties otherwise applicable, with specified administrative procedures for the imposition and enforcement of the administrative penalties, including an initial review and opportunity for a subsequent administrative hearing.

This bill would provide that a person who fails to pay the administrative penalty when due or successfully complete the administrative process to dismiss the notice of fare evasion or passenger misconduct may be subject to those criminal penalties. The bill would require the notice of fare evasion or passenger misconduct to contain a printed statement that the person may be charged with an infraction or misdemeanor if the administrative penalty is not paid when due or dismissed pursuant to these provisions.

The bill would also require the processing agency to dismiss the original notice of fare evasion and make no further attempts to collect the administrative penalty if the person is charged with an infraction

or misdemeanor after failing to pay the administrative penalty or successfully complete the civil administrative process. The bill would require the processing agency to personally serve the person charged with an infraction or misdemeanor with a new notice of fare evasion that sets forth the criminal violation.

Because the bill would expand the scope of an existing crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 99580 of the Public Utilities Code is
- 2 amended to read:
- 3 99580. (a) Pursuant to subdivision (e) of Section 640 of the
- 4 Penal Code, a public transportation agency may enact and enforce
- 5 an ordinance to impose and enforce an administrative penalty for
- 6 any of the acts described in subdivision (b). The ordinance shall
- 7 include the provisions of this chapter and shall not apply to minors.
- 8 (b) (1) Evasion of the payment of a fare of the system.
- 9 (2) Misuse of a transfer, pass, ticket, or token with the intent to
- 10 evade the payment of a fare.
- 11 (3) Playing sound equipment on or in a system facility or
- 12 vehicle.
- 13 (4) Smoking, eating, or drinking in or on a system facility or
- 14 vehicle in those areas where those activities are prohibited by that
- 15 system.
- 16 (5) Expectorating upon a system facility or vehicle.
- 17 (6) Willfully disturbing others on or in a system facility or
- 18 vehicle by engaging in boisterous or unruly behavior.
- 19 (7) Carrying an explosive or acid, flammable liquid, or toxic or
- 20 hazardous material in a system facility or vehicle.
- 21 (8) Urinating or defecating in a system facility or vehicle, except
- 22 in a lavatory. However, this paragraph shall not apply to a person

1 who cannot comply with this paragraph as a result of a disability,
2 age, or a medical condition.

3 (9) (A) Willfully blocking the free movement of another person
4 in a system facility or vehicle.

5 (B) This paragraph shall not be interpreted to affect any lawful
6 activities permitted or ~~first amendment~~ *First Amendment* rights
7 protected under the laws of this state or applicable federal law,
8 including, but not limited to, laws related to collective bargaining,
9 labor relations, or labor disputes.

10 (10) Skateboarding, roller skating, bicycle riding, or roller
11 blading in a system facility, including a parking structure, or in a
12 system vehicle. This paragraph does not apply to an activity that
13 is necessary for utilization of a system facility by a bicyclist,
14 including, but not limited to, an activity that is necessary for
15 parking a bicycle or transporting a bicycle aboard a system vehicle,
16 if that activity is conducted with the permission of the agency of
17 the system in a manner that does not interfere with the safety of
18 the bicyclist or other patrons of the system facility.

19 (11) (A) Unauthorized use of a discount ticket or failure to
20 present, upon request from a system representative, acceptable
21 proof of eligibility to use a discount ticket, in accordance with
22 Section 99155, and posted system identification policies when
23 entering or exiting a system station or vehicle. Acceptable proof
24 of eligibility must be clearly defined in the posting.

25 (B) In the event that an eligible discount ticket user is not in
26 possession of acceptable proof at the time of request, an issued
27 notice of fare evasion or passenger conduct violation shall be held
28 for a period of 72 hours to allow the user to produce acceptable
29 proof. If the proof is provided, that notice shall be voided. If the
30 proof is not produced within that time period, that notice shall be
31 processed.

32 (12) Sale or peddling of any goods, merchandise, property, or
33 services of any kind whatsoever on the facilities, vehicles, or
34 property of the public transportation system without the express
35 written consent of the public transportation system or its duly
36 authorized representatives.

37 (c) (1) The public transportation agency may contract with a
38 private vendor or governmental agency for the processing of notices
39 of fare evasion or passenger conduct violation, and notices of

1 delinquent fare evasion or passenger conduct violation pursuant
2 to Section 99581.

3 (2) For the purpose of this chapter, “processing agency” means
4 either of the following:

5 (A) The agency issuing the notice of fare evasion or passenger
6 conduct violation and the notice of delinquent fare evasion or
7 passenger conduct violation.

8 (B) The party responsible for processing the notice of fare
9 evasion or passenger conduct violation and the notice of delinquent
10 violation, if a contract is entered into pursuant to paragraph (1).

11 (3) For the purpose of this chapter, “fare evasion or passenger
12 conduct violation penalty” includes, but is not limited to, a late
13 payment penalty, administrative fee, fine, assessment, and costs
14 of collection as provided for in the ordinance.

15 (4) For the purpose of this chapter, “public transportation
16 agency” shall mean a public agency that provides public
17 transportation as defined in paragraph (1) of subdivision (f) of
18 Section 1 of Article XIX A of the California Constitution.

19 (5) All fare evasion and passenger conduct violation penalties
20 collected pursuant to this chapter shall be deposited in the general
21 fund of the county in which the citation is administered.

22 (d) (1) If a fare evasion or passenger conduct violation is
23 observed by a person authorized to enforce the ordinance, a notice
24 of fare evasion or passenger conduct violation shall be issued. The
25 notice shall set forth all of the following:

26 (A) The violation, including reference to the ordinance setting
27 forth the administrative penalty.

28 (B) The date and approximate time of the violation, and the
29 location where the violation occurred.

30 (C) A printed statement indicating the date payment is required
31 to be made.

32 (D) The procedure for contesting the notice.

33 (E) A printed statement that the person may be charged with an
34 infraction or misdemeanor pursuant to Section 640 of the Penal
35 Code if the administrative penalty is not paid when due or
36 dismissed pursuant to the procedure for contesting the notice.

37 (2) The notice shall be served by personal service upon the
38 violator. The notice, or copy of the notice, shall be considered a
39 record kept in the ordinary course of business of the issuing agency
40 and the processing agency, and shall be prima facie evidence of

1 the facts contained in the notice establishing a rebuttable
2 presumption affecting the burden of producing evidence.

3 (3) When a notice of fare evasion or passenger conduct violation
4 has been served, the person issuing the notice shall file the notice
5 with the processing agency.

6 (4) If, after a notice of fare evasion or passenger conduct
7 violation is issued pursuant to this section, the issuing officer
8 determines that there is incorrect data on the notice, including, but
9 not limited to, the date or time, the issuing officer may indicate in
10 writing on a form attached to the original notice the necessary
11 correction to allow for the timely entry of the corrected notice on
12 the processing agency's data system. A copy of the correction shall
13 be mailed to the address provided by the person cited at the time
14 the original notice of fare evasion or passenger conduct violation
15 was served.

16 (5) If a person contests a notice of fare evasion or passenger
17 conduct violation, the issuing agency shall proceed in accordance
18 with Section 99581.

19 (e) In setting the amounts of administrative penalties for the
20 violations listed in subdivision (b), the public transportation agency
21 shall not establish penalty amounts that exceed the maximum fine
22 amount set forth in Section 640 of the Penal Code.

23 (f) (1) A person who receives a notice of fare evasion or
24 passenger conduct violation pursuant to this section shall not be
25 subject to citation for a violation of Section 640 of the Penal Code,
26 if the person pays the administrative penalty when due or
27 successfully completes the civil administrative process pursuant
28 to this chapter.

29 (2) A person who fails to pay the administrative penalty when
30 due or successfully complete the civil administrative process
31 pursuant to this chapter may be charged with an infraction or
32 misdemeanor pursuant to Section 640 of the Penal Code.

33 (3) *If a person is charged with an infraction or misdemeanor*
34 *pursuant to Section 640 of the Penal Code, after failing to pay the*
35 *administrative penalty or successfully complete the civil*
36 *administrative process pursuant to this chapter, the processing*
37 *agency shall dismiss the original notice of fare evasion and make*
38 *no further attempts to collect the administrative penalty.*

39 (4) *A person who is charged with an infraction or misdemeanor*
40 *pursuant to Section 640 of the Penal Code, after failing to pay the*

1 *administrative penalty or successfully complete the civil*
2 *administrative process pursuant to this chapter, shall be personally*
3 *served by the processing agency with a new notice of fare evasion*
4 *that sets forth the violation under Section 640 of the Penal Code.*

5 (g) If an entity enacts an ordinance pursuant to this section it
6 shall, both two years and five years after enactment of the
7 ordinance, report all of the following information to the Senate
8 Committee on Transportation and Housing and the Assembly
9 Committee on Transportation:

10 (1) A description of the ordinance, including the circumstances
11 under which an alleged violator is afforded the opportunity to
12 complete the administrative process.

13 (2) The amount of the administrative penalties.

14 (3) The number and types of citations administered pursuant to
15 the ordinance.

16 (4) To the extent available, a comparison of the number and
17 types of citations administered pursuant to the ordinance with the
18 number and types of citations issued for similar offenses and
19 administered through the courts both in the two years prior to the
20 ordinance and, if any, since enactment of the ordinance.

21 (5) A discussion of the effect of the ordinance on passenger
22 behavior.

23 (6) A discussion of the effect of the ordinance on revenues to
24 the entity described in subdivision (a) and, in consultation with
25 the superior courts, the cost savings to the county courts. The
26 superior courts are encouraged to collaborate on and provide data
27 for this report.

28 SEC. 2. No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution because
30 the only costs that may be incurred by a local agency or school
31 district will be incurred because this act creates a new crime or
32 infraction, eliminates a crime or infraction, or changes the penalty
33 for a crime or infraction, within the meaning of Section 17556 of
34 the Government Code, or changes the definition of a crime within
35 the meaning of Section 6 of Article XIII B of the California
36 Constitution.